

THE SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT

SECTION 213 INFORMAL GUIDANCE PROGRAM

REPORT

TO CONGRESS

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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Executive Summary

The U. S. Environmental Protection Agency (EPA) is pleased to submit this Report to Congress in compliance with Section 213(c) of the Small Business Regulatory Enforcement Fairness Act (SBREFA). This report outlines the scope and effectiveness of EPA's Informal Guidance Program for small entities under SBREFA §213 -- Informal Small Entity Guidance. Section 213 requires agencies to provide informal guidance on existing statutes and regulations to small entities¹ and, relying to the extent practicable on existing resources, establish a program to provide that guidance. In particular, each agency is to provide small entities with guidance on statutes and regulations administered by the agency, including the application of law to specific sets of facts supplied by the small entities. EPA has established an Informal Guidance Program that consists of four main components: (1) the Asbestos and Small Business Ombudsman (SBO), located at EPA Headquarters; (2) regional small business liaisons, who serve as local resources to assist small entities who contact the EPA regional offices; (3) various hotlines and clearinghouses which serve entities of any size, including large percentages of small entities; and (4) technical and program staff located throughout Headquarters and the regions who are available to answer questions in their subject area or who refer small entities to the appropriate State and local resources.

In designing this program, EPA's two guiding principles were 1) to ensure the accessibility of the informal guidance program to the small entity community, and 2) avoid duplication with existing activities. As provided in §213(b), EPA has attempted to apply existing functions and personnel in creating the program. By incorporating EPA's Small Business Ombudsman (SBO) and other existing services at the core of the Agency's Informal Guidance Program, EPA is able to achieve both goals.

Organizationally, the SBO is located in the Office of Regulatory Management and Information and reports to the Small Business Advocacy Chair. The SBO is already well-known in the small entity community, serving as a "first-stop shop" for multi-media compliance information. Established over a decade before Congress enacted SBREFA, the SBO administers a free hotline handling approximately 1000 calls per month, answering fact-specific compliance questions, distributing supporting

¹The Regulatory Flexibility Act defines small entities as including "small businesses," "small governments" and "small organizations." The RFA references the definition of "small business" found in the Small Business Act, which itself authorizes the Small Business Administration (SBA) to further define "small business" by regulation. The SBA's small business definitions are codified at 13 CFR 121.201. The SBA defines small business by category of business using Standard Industrial Classification (SIC) codes, and in the case of manufacturing, generally defines small business as a business having 500 employees or less. The RFA defines "small governmental jurisdiction" as the government of a city, county, town, school district or special district with a population of less than 50,000 and a "small organization" as any "not for profit enterprise which is independently owned and operated and is not dominant in its field."

documentation, and providing information on additional sources of assistance. Callers may remain anonymous at their own discretion. In Fiscal Year 1997 alone the SBO responded to approximately 10,982 calls in the following subject areas:

- (1) Asbestos -- 4,572 calls
- (2) Solid Waste/Hazardous Waste -- 1,526 calls
- (3) Clean Air -- 1,004 calls
- (4) Superfund CERCLA/SARA III -- 314 calls
- (5) Water Pollution/Drinking Water -- 254 calls
- (6) Pesticides -- 132 calls
- (7) Loans/Grants -- 266 calls
- (8) General -- 1,940 calls
- (9) Referrals to other EPA/Fed/State/Local -- 688 calls

In addition to these calls to the hotline, SBO staffers respond to another 1,000 or more calls annually that are made directly to their desks. Although the SBO hotline is specifically geared to small businesses, a small percentage of the callers represent larger companies.

In addition to the SBO EPA has committed numerous other resources to answering compliance questions from small entities, such as the small business liaisons, program-specific hotlines and clearinghouses, and technical and program media staff. For example, EPA sponsors approximately 89 hotlines and clearinghouses throughout Headquarters and the regions, which are available to customers of any size, including small entities. EPA considers all of these programs part of its §213 Informal Guidance Program. In response to the §213(b) requirement for measures of small-entity utilization, EPA asked several of the hotlines to keep track of how many callers represent a company of 500 or fewer employees.

The Office of Solid Waste and Emergency Response's RCRA/UST/CERCLA/EPCRA Hotline received 8,057 calls during the period from November 24, 1997 through December 31, 1997. 1,458 of these contacts were from callers representing companies of 500 or fewer employees.

The Stratospheric Ozone Information Hotline received 1,173 calls during the period of December 8, 1997 through January 16, 1998. 551 callers indicated that they were small businesses, 455 responded that they were not small businesses, and 167 indicated "no response."

In 1997, the TSCA Hotline received an average of 1,595 inquiries each month, 61% of which were from industry representatives. To estimate usage by small entities, between January 5, 1998, and February 6, 1998, TSCA Hotline information specialists polled a subset of 381 telephone correspondents requesting specific technical information other than printed documents (out of 1,343 total calls handled). Of the 327 callers willing to respond to the poll, 290 originated with either industry (141 inquiries) or law firms (149 inquiries) who may have been representing industry. Of the inquiries

received from industry representatives, 60% (or 85) were from small entities. Hotline staff could not determine which law firms were representing small entities. While it is not possible to draw any broad conclusions from this limited survey, it is worth noting that small entities are well-represented among industry callers willing to characterize themselves by size in this snapshot sample of users of a broad-spectrum service.

EPA has a long history of developing authoritative materials to aid the regulatory community in its compliance efforts. These documents include such items as Sector Notebooks, Plain English Guides, and Fact Sheets. Through the issuance of such documents EPA seeks to anticipate questions from small entities, often precluding the need for a small entity to contact the Agency with a related inquiry. In addition to these written materials, EPA makes numerous resources easily accessible through the main EPA home page (www.epa.gov). To the extent that such materials respond to fact-specific inquiries, they are part of the §213 program as well.

Section 213 provides that the guidance provided by the Informal Guidance Program may be used as evidence of the appropriateness of any civil penalties brought against such small entity in an enforcement action. Although EPA sponsors numerous other activities that assist the small entity community in valuable ways, we cannot consider all these efforts specifically responsive to the requirements of §213. Not all activities sponsored or supported by EPA operate sufficiently under the Agency's direction to take action for which the Agency may be held accountable. Examples include industry partnerships, which are small business programs run by universities under grant or cooperative agreement, as well as Small Business Assistance Programs (SBAP) run by the States under §507 of the Clean Air Act. In these situations, EPA has provided support and maintains a meaningful affiliation with the programs, but the personnel advising small entities are neither EPA employees nor monitored by EPA. Therefore, though EPA may have high confidence in the advice these programs offer to small entities, their counsel cannot be construed as Agency guidance under §213.

For example, in the case of the §507 Program (Clean Air Act Amendments), EPA provides technical support to States for the implementation of State-run Small Business Assistance Programs. EPA provides assistance in the form of Internet home pages, plain-language materials, seminars, outreach, and the use of data bases. However, it is the States who ultimately provide the assistance to the small entity, often on the subject of State as well as Federal requirements. In 1996, SBAPs assisted over 73,000 small businesses through such activities as toll-free hotlines, fact-sheets, brochures, seminars, and meetings. SBAPs also conducted over 3,800 on-site consultations with small businesses.

Compliance Assistance Centers (CAC) and clearinghouses, which are funded by EPA but managed by university/industry partnerships, represent another significant source of support for small business which EPA does not include within the scope of the §213 Informal Guidance Program. Despite the technical exclusion of such services as SBAPs and CACs from the formal §213 program, EPA values and relies upon them as important components of its compliance assistance network. Since many compliance questions involve State and local requirements, EPA staff frequently refer callers to these facilities as a

more appropriate source of information at the State or local level.

EPA has taken several additional steps to respond to the needs of the small entity community. In an effort to provide small businesses better access to the regulatory process, SBREFA created the position of Small Business Advocacy Chair within EPA to manage pre-regulatory, inter-agency panels to review Regulatory Flexibility issues. EPA has broadened the role of the Chair beyond that specified in the statute to help coordinate all of the Agency's small business activities, including those aimed at compliance assistance. In another effort to promote environmental compliance by the small entity community, EPA issued its Policy on Compliance Incentives for Small Businesses ("the Small Business Policy") and its Small Communities Policy to provide small entities with incentives to perform self audits or receive on-site compliance assistance. These policies provide that penalties resulting from violations discovered as a result of these efforts will be reduced or waived when certain criteria are met. EPA will report to Congress on these and the EPA Audit Policy, in a separate document prepared under §223 of SBREFA.

EPA is committed to enhancing its relationship with the small entity community through these and other activities. The Agency looks forward to the opportunities SBREFA provides to ensure that EPA regulations and activities take into account the needs and concerns of small entities.

EPA's Informal Guidance Program

1.0 Background

1.1 Statutory Requirements of §213

§213 of the Small Business Regulatory Enforcement and Fairness Act (SBREFA) requires EPA to provide guidance to small entities, to establish a program for providing the guidance, and to issue a report to Congress regarding the program. Under §213(a), agencies are required to answer inquiries from small entities regarding compliance with agency statutes and regulations. In particular, agencies are required to provide advice based on the application of the law to specific sets of facts supplied by small entities. This guidance can be considered as evidence of the reasonableness or appropriateness of penalties sought against a small entity. Within one year after enactment of SBREFA, under §213(b), agencies were required to establish programs to provide the type of advice indicated in §213(a). To the extent practicable, agencies were to rely on “existing functions and personnel” in establishing their programs. Finally, within two years of the enactment of SBREFA, agencies are required to provide a report to the Committee on Small Business and the Committee on Governmental Affairs of the Senate and the Committee on Small Business and Committee on the Judiciary of the House of Representatives regarding their program. In accordance with §213(c), the Report is to address “the scope of the agency’s program, the number of small entities using the program, and the achievements to assist small entity compliance with agency regulations.” This document represents EPA’s report under §213(c).

1.2 EPA’s Approach to Implementing §213

In designing the program and in keeping with §213's directive to apply existing functions and personnel of the agency to the extent practicable, EPA’s first step was to evaluate what type of programs and services already exist that provide assistance to small entities. After conducting a thorough inventory of its program and regional offices, EPA has determined that existing programs and services are sufficient to establish the “program” under §213. The Agency believes it already provides a wide range of informal guidance through its Small Business Ombudsman, regional small business liaisons, numerous hotlines and clearinghouses, and program technical staff throughout the media offices and regions. EPA takes seriously its responsibilities to small entities and views the Informal Guidance Program as an opportunity to improve and advertise its services to this group.

2.0 Description of the Informal Guidance Program

2.1 General Discussion

SBREFA §213 (b) requires the Agency to operate a program which answers fact-specific inquiries by small entities concerning compliance with statutes and regulations. §213(a) provides that “in any civil or administrative action against a small entity, guidance given by an agency applying the law to facts provided by the small entity may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages sought against such small entity.” This means that a small entity would be able to claim that it relied on information provided by EPA’s “§213 Informal Guidance Program” in an effort to have the court or Administrative Law Judge reduce the penalty requested by the Government in an enforcement action. For this reason, EPA must clarify the types of activities that compose the Agency’s Informal Guidance Program under §213, i.e., specify those activities which may be considered to be “agency guidance” for purposes of §213(a).

For purposes of §213 EPA includes compliance assistance offered to small entities directly by Agency employees, through mechanisms supervised by Agency employees, or by contractors monitored by Agency employees. By statute, EPA cannot award grants to obtain services, so grantees cannot act on behalf of the Agency. While EPA may enter into contracts for services, Federal statutes and regulations limit the type of information that contractors may provide on behalf of an Agency. For instance, contractors are prohibited from determining agency policy, including the content or application of statutes and regulations. Therefore, the official EPA advice that grantees and contractors provide to small entities is limited to information the Agency has made publicly available through regulations, fact sheets, guidance, and similar documents. A grantee or contractor may consult with EPA personnel on the application of official agency positions to particular situations. However, the nature of the legal relationship between EPA and grantees or contractors is such that these external parties do not interpret statutes and regulations under the authority of the Agency. Therefore, to the extent that grantees and contractors are identified as part of the Program, the agency advice they can provide is limited to information or interpretations previously established by Agency employees in regulations, policies, guidance, or fact sheets. These are instances where the Agency exercises appropriate control over what guidance is being provided to the public, and that guidance should be considered “agency guidance.”

Such situations generally include compliance assistance offered through all of the following resources: (1) the Small Business Ombudsman’s Office and Hotline, whose Senior Environmental Employees, while not EPA personnel, operate the Hotline and perform other functions under close supervision by the Small Business Ombudsman; (2) Regional Small Business Liaisons; (3) various hotlines and clearinghouses run by contract or by Agency personnel; and (4) technical and programmatic EPA employees throughout EPA Headquarters and regions, who routinely respond to fact-specific inquiries from requesters of all sizes, including small entities.

In addition to activities which compose the Informal Guidance Program under §213, EPA is affiliated

with other activities which do not fall within the 213 program. Such activities include Compliance Assistance Centers (CAC), which represent partnerships with industry where the Agency generally has no control over the information provided; small business programs run by universities under grants or cooperative agreements; and the Small Business Assistance Programs (SBAP) run by the States under §507 of the Clean Air Act. In these cases, EPA has facilitated the dissemination of useful information, but such information is not provided by Agency personnel or Agency-supervised personnel, and therefore does not constitute Agency guidance.

2.2 Components of the Informal Guidance Program

2.2.1 Asbestos and Small Business Ombudsman

The position of the Small Business Ombudsman (SBO) was established by the Administrator of EPA in 1982 to provide a convenient way for a small business to access EPA programs and services. The SBO program is geared specifically to the small business community. Consistent with the requirements of §213, the SBO provides fact-specific compliance information to the small entity or may coordinate with EPA personnel to provide the information requested. The SBO is the first stop for a small business to obtain plain-language, multimedia compliance information. The main objective in providing information to the small entity is to promote an atmosphere between the Agency and the regulated small entity community that will enhance compliance with environmental regulations. The SBO administers a free hotline which handles approximately 1000 calls per month and provides answers to fact-specific compliance questions, distributes supporting documentation, and provides additional sources of information. SBO staff promptly answer or return all calls, and callers may request anonymity. SBO staff generally respond to mail requests within 72 hours, and the Small Business Ombudsman herself reviews responses for accuracy and relevance to the request. In addition, the SBO has established a home page on the Internet to benefit the small-entity community. The home page is organized in a user-friendly manner by State, industry sector, and environmental topic and includes information about the SBO program, fact sheets and documents, and compliance information. It provides links to other web sites operated by State environmental agencies and other small business assistance programs.

In addition to providing fact-specific guidance to the small entity community as part of the Informal Guidance Program, the SBO also plays a role in other small business-related activities. The SBO conducts regular meetings between small business trade association representatives and Agency officials to provide face-to-face communication and problem intervention. The SBO serves as an advocate for small business needs in the EPA workgroup regulatory process, promoting small business outreach and ensuring reasonable needs are articulated and addressed in rulemakings. The SBO also provides small businesses with information once the regulations are issued. The SBO distributes an informative Newsletter updating small businesses on regulatory and compliance issues affecting them, and solicits feedback from small businesses on difficulties they face interpreting or meeting environmental requirements in an effort to help to reduce similar difficulties in the future. In that capacity, the SBO elevates small business concerns to the proper Agency officials to investigate and resolve disputes with

the Agency. In response to the needs of the small business community, the SBO maintains and distributes an extensive collection of descriptive and technical information. Over the past year, the SBO has spoken at several small business-related meetings and conferences and recently hosted the fourth National Small Business Ombudsman and Technical Assistance Program Conference in Charleston, S.C., attended by representatives from 43 States and 2 Territories.

The SBO has forged valuable relationships with all of the major national small business trade associations. The success of the program can be gauged by the growth of their telephone assistance services from approximately 4000 calls per year in the early 1980's to nearly 11,000 per year a decade later.

2.2.2 Small Business Liaisons

In addition to the SBO's central office and associated hotline at EPA Headquarters, the SBO has also established Small Business Liaisons in each of EPA's regional offices to provide small entities with a local option for obtaining compliance assistance information. Located in all ten regional offices, the Small Business Liaisons serve as a convenient central access point for small businesses in their initial interaction with the regional offices. The Small Business Liaisons work closely with the Agency's Small Business Ombudsman and meet annually to share ideas about how best to serve the small business community. Some of the liaisons are affiliated with assistance centers and associated hotlines. For example, Region III's Business Assistance Center and its Hotline assist small entities and promote pollution prevention. The Business Assistance Center provides businesses with information on environmental requirements as they apply to the particular business, responds to written and phone inquiries with regulatory and technical assistance, and conducts outreach based on feedback from the small business community. The Center increases EPA's sensitivity and responsiveness to small businesses by listening to and cooperating with business-related trade and professional associations and service providers. It works closely with State and local small business programs to ensure that businesses receive complete service.

2.2.3 Hotlines and Clearinghouses

EPA sponsors approximately 89 hotlines and clearinghouses throughout Headquarters and the regions, which are available to correspondents of any size, including small entities. In some cases, these programs are staffed by EPA personnel; in other situations, the program is supported by contract. These types of activities provide Agency guidance in the context of the Informal Guidance Program. In situations where the hotline is operated under contract, basic operating principles apply. For example, in the work assignments for the contract, there are standard operating procedures for how the operator will receive and respond to public inquiries. Hotline staff are instructed to immediately identify that the hotline is operated by a contractor, and in some cases, the contractor is provided specific language to use in communicating with the caller.

These hotlines provide a free and convenient avenue for small entities to obtain assistance and allow the caller to remain anonymous. The following represents only a sampling of the hotlines available for correspondents of any size, including small entities:

The Office of Air and Radiation's (OAR) Clean Air Technology Center (CATC) -- Serves as a resource on all areas of emerging and existing air pollution prevention and control technologies, including information on their use, effectiveness, and cost. *OAR's Clearinghouse for Inventories and Emission Factors (CHIEF)* -- Provides access to the latest information and tools for estimating emissions of air pollutants and performing air emission inventories. *OAR's Stratospheric Ozone Information Hotline* -- Disseminates in-depth information concerning regulatory requirements, including the refrigerant recycling programs. In addition, the hotline provides information regarding ozone depletion, the UV index and sun protection, and non-ozone depleting substitutes for various applications.

Safe Drinking Water Hotline (SDW) -- Assists public water systems, State and local officials, and members of the public with information on EPA regulations and programs authorized by the Safe Drinking Water Act. This includes drinking water regulations, other related drinking water topics, wellhead protection and ground water protection program information. While this hotline is open to all inquirers, it should be noted that currently 95% of all regulated drinking water systems are considered small entities (i.e., serve populations of less than 50,000).

The Toxic Substances Control Act Assistance Information Service (TSCA Hotline) -- Provides technical assistance and information about programs implemented under the Toxics Substances Control Act, the Asbestos School Hazard Abatement Act (ASHAA), the Asbestos Hazard Emergency Response Act (AHERA), the Asbestos School Hazard Abatement Reauthorization Act (ASHARA), the Residential Lead-Based Paint Hazard Reduction Act, and the Pollution Prevention Act (PPA). The TSCA Hotline is staffed by professionals who are trained to answer technical inquiries about these programs and some pollution prevention activities. A variety of documents are available through the TSCA Hotline including Federal Register notices, reports, informational brochures, and booklets.

The National Pesticide Telecommunications Network (NPTN)--provides pesticide information to any caller in the United States, Puerto Rico, or the Virgin Islands. Industry and the public may obtain information about a wide variety of pesticide-related subjects, including: pesticide products, recognition and management of pesticide poisoning, toxicology, and environmental chemistry. NPTN is a source of chemical, health, and environmental information about more than 600 pesticide active ingredients incorporated into over 50,000 different products registered for use in the United States since 1947. The hotline specialists can help callers interpret and understand toxicology and environmental chemistry information about pesticides. They have access to over 300 pesticide resources including pesticide label information. If a caller needs additional or more specific information, NPTN can also direct callers to experts regarding pesticide safety practices, clean-up and disposal, and laboratory analyses.

Resource Conservation and Recovery Act/Underground Storage Tanks (RCRA/UST), Superfund,

and Emergency Planning and Community Right-to-Know Act (EPCRA) Hotline -- Answers questions from entities of any size, including those specific to small business concerns. They do not respond directly to fact-specific applicability requests; these are referred to program experts and the Office of General Counsel. Questions and answers are included in a Hotline Report "Inside the Hotline," a compilation of Monthly Hotline Reports.

Region 1's Superfund Small Party Hotline --This service provides information about special types of settlements or procedures for "small" or "de minimus" parties as designated under CERCLA. Hotline staff answers general questions about Superfund and the process that EPA uses to negotiate with parties who may have contributed hazardous waste to a site. The hotline is part of a national and regional initiative to allow the general public easier and more comprehensive access to EPA policy and guidelines. In addition to this hotline, the region has also designated a Superfund Ombudsman, who serves as the initial point of contact for the public when the public's concerns cannot be resolved through normal Superfund channels. The regional ombudsman then assists parties with their concerns.

Region 1's NEEATeam and associated assistance line--This program provides information to the regulated community enabling callers to come into or maintain compliance with EPA requirements while encouraging incorporation of pollution prevention techniques into a small entity's business practices.

Region 3's Business Assistance Center and Hotline--The purpose of this program is to assist small and medium size businesses in complying with environmental regulations in order to protect the environment while sustaining economic development and to seek opportunities to minimize waste generation by promoting pollution prevention and Region III's Partnership programs and environmental technology industry. The Business Assistance Center provides businesses with information on environmental requirements as they apply to the particular business, responding to written and phone inquiries with regulatory and technical assistance and conduct outreach based on feedback from the small business community. The Business Assistance Center also serves as an advocate for small businesses and provides a convenient central access point in their interactions with the Region. Elliott: While this program was not specifically designed for small entities, it is estimated that 95 % of the users are small businesses.

Superfund/RCRA Community Involvement Hotline--EPA-run toll-free hotline for the public operated in English and Spanish. Currently keeps records which indicate that most questions were from small entities during year.

Region 9's Chloroflourocarbon (CFC) Hotline in Stratospheric Protection Program--provides information to callers relating to CFC issues.

Region 9's RCRA Information Center--This program is a part of the region's RCRA Compliance Assistance Program and includes a RCRA-specific library, and a RCRA Information Line. The program supports a number of customers, including State and local agencies and the general public

including small entities. The RCRA Information Line disseminates copies and summaries of FRs and RCRA/Superfund Hotline Reports, and a wide variety of guidance documents from the region and from Headquarters. It provides a single point of contact where the regulated community can obtain answers to technical and regulatory questions or be referred to EPA or State contacts as necessary.

Region 1's Research library for RCRA-- assists public with publicly available information. Maintains log of responses to assistance requests. Refers regulatory interpretations to program offices.

Public Affairs or External Affairs Offices--Several regions have offices that receive and respond to inquiries from all size entities, including small entities. For example, Region 7's Office of External Programs advertises and operates a 1-800 number to receive and answer inquiries from all size entities, including small entities. Calls are referred to the Small Business Liaison or the appropriate program office. The region responds to about 11,000 calls per year from all entities. Likewise, Region 5 and Region 6's Office of Public Affairs have also established a toll-free hotline for all size entities to contact the region.

2.2.4 Technical and Program Media Staff

Throughout the Agency, there are personnel with technical and programmatic expertise who are available to answer small entities' fact-specific questions. In some cases, the staff are in the EPA regional offices; in other cases, they may be Headquarters personnel. EPA staff respond to each inquiry professionally and promptly as an exercise in customer service. Program staff frequently respond to issues which have previously been addressed by the Agency. Legal issues are most frequently referred to the Office of General Counsel (OGC) for response. Enforcement and compliance issues are often referred to staff in the Office of Enforcement and Compliance Assurance (OECA). All other issues which involve a particular program are answered by the appropriate media staff in the program office or region, though the program expert may consult with OGC or OECA for concurrence. EPA recognizes that much valuable compliance assistance occurs at the State and local levels, and EPA staff may also refer the caller to a more appropriate source at the State or local level, especially if the inquiry involves a State-authorized program.

Many media offices have developed programs which provide informal guidance to callers about specific media issues. For example, the Office of Pesticide and Pollution Prevention's Registration Ombudsmen serve as liaisons with industry, States, and regional offices to facilitate compliance with the registration requirements for pesticides. Ombudsmen are critical links for small entities in locating pesticide registration information. There are two ombudsmen, one for Conventional Pesticides and the other for Antimicrobial Pesticides Registration. In addition, the Biopesticides Division has designated a liaison with the industry to provide registration information for biopesticide products and to arrange meetings. Likewise, Region 9 has designated a Superfund Regional Ombudsman to encourage the use of dispute resolution techniques to assist parties in reaching an acceptable resolution. The Ombudsman provides a point of contact to facilitate resolution of stakeholder concerns at the regional level. As another

example, the Office of Air and Radiation has established a Hotline for the Significant New Alternatives Policy Program (SNAP) which identifies substitutes to ozone-depleting substances. The SNAP Hotline addresses fact-specific inquiries from a substantial number of small entities regarding acceptable and unacceptable substitutes. Its Motor Vehicle Air Conditioning Program addresses fact-specific questions from automotive repair technicians, many of whom tend to be self-employed or employed by small entities.

3.0 Quantifying the Use and Accessibility of the Informal Guidance Program

§213(c) provides that the Agency's report should identify "the number of small entities using the program." Producing this information with any degree of precision has not proved possible. Much of the outreach provided by the Agency is via telephone or the Internet. Many persons seeking the Agency's assistance do so only because they may remain anonymous and may therefore be reluctant to answer questions. Moreover, the definition of a small entity varies from industry to industry, and it is not easy to ascertain whether an entity is "small" from only a few questions. Therefore, even if a person were willing to answer questions, such answers would not necessarily lead to an accurate conclusion about whether the entity is "small." Despite these limitations, the Agency has developed information that provide some insight regarding the number of small entities that use specific components of the Program. Though assistance is available to anyone who applies, EPA believes that certain parts of the Program (e.g., the Small Business Ombudsman Office and its associated hotline) work almost exclusively with small entities. Other parts of the Program, (e.g., Agency experts) work with a variety of entities and it is much more difficult, for the reasons provided above, to provide estimates of the number of persons that are small entities.

3.1. SBO Hotline

These figures represent information already assembled by the Small Business Ombudsman's Office on the number of calls received by their hotline for the Fiscal Year 1997. This hotline is specifically geared to small businesses, although a small percentage of the callers are also larger companies. In Fiscal Year 1997 alone, the SBO responded to approximately 10,982 calls in the following subject areas:

- (1) Asbestos -- 4,572 calls
- (2) Solid Waste/Hazardous Waste -- 1,526 calls
- (3) Clean Air -- 1,004 calls
- (4) Superfund CERCLA/SARA III -- 314 calls
- (5) Water Pollution/drinking Water -- 254 calls
- (6) Pesticides -- 132 calls
- (7) Loans/Grants -- 266 calls
- (8) General -- 1,940 calls
- (9) Referrals to other EPA/Fed/State/Local -- 688 calls

In addition to these calls to the hotline, SBO staffers respond to another 1,000 or more calls annually that are made directly to their desks. In prior fiscal years, the SBO received a lot more (at least 3 times) air pollution program calls than at present. This likely reflects the effectiveness of the State CAA §507 programs and the operation of OAR specialized assistance lines. Also, calls in general are down about 20% from the historic high period, reflecting, we believe, the expansion of overall Federal/State assistance efforts that are going on through OECA and other State assistance providers.

3.2. Media Hotlines

Snap Shot Assessment --EPA also administers a number of hotlines which are not specifically geared to small entities but that provide informal guidance to businesses of all sizes, including small entities. In order to get some idea of whether or not and the extent to which small entities were using these hotlines, EPA asked several of these hotlines to keep track of how many callers represent a company with 500 or fewer employees, the number referenced in the RFA's default definition of "small business" (See Footnote 1). The following discussion of the results of this assessment reflects a snapshot in time; as such it treats only the calls received during the referenced time period and should not be extrapolated to fully reflect the full range of the Agency's interactions with small entities.

Office of Air and Radiation's Stratospheric Ozone Information Hotline--From December 8, 1997 through January 16, 1998, of the 1173 calls received, 551 callers indicated that they were in the category of small businesses, 455 callers responded that they were not a small business, and 167 callers indicated "no response." These results may not be representative of usage due to the time of year this information was collected. Hotline usage tends to increase as the temperature rises.

Office of Solid Waste and Emergence Response's RCRA/UST/CERCLA/EPCRA Hotline--From November 24, 1997 through December 31, 1997, the hotline received 8057 calls, 1458 of which were from callers representing companies of 500 or less employees. Of the 1458 small business calls, 1013 of these were from callers asking the hotline to respond to fact-specific questions and 445 calls were of a more general nature.

Office of Pollution Prevention and Toxics Substances Hotline--In 1997, the TSCA Hotline received an average of 1,595 inquiries each month, 61% of which were from industry representatives. To estimate usage by small entities, between January 5, 1998, and February 6, 1998, TSCA Hotline information specialists polled a subset of 381 telephone correspondents requesting specific technical information other than printed documents (out of 1,343 total calls handled). Of the 327 callers willing to respond to the poll, 290 originated with either industry (141 inquiries) or law firms (149 inquiries) who may have been representing industry. Of the inquiries received from industry representatives, 60% (or 85) were from small entities. Hotline staff could not determine which law firms were representing small entities. While it is not possible to draw any broad conclusions from this limited survey, it is worth noting that small entities are well-represented among industry callers willing to characterize themselves by size in this snapshot sample of users of a broad-spectrum service.

4.0 Achievements of the SBREFA Section 213 Program in assisting small entities' compliance with Agency regulations

In a continuing effort to increase the effectiveness of the Agency's Section 213 program and other compliance assistance activities and incentives, EPA has recently embarked on a national strategy to measure the impacts of such activities. One component of the strategy provides that several EPA regions participate in a pilot project in Fiscal Year 1998 to report outcome measures for their strategic compliance assistance activities. Beginning in Fiscal Year 1999, EPA plans to consistently collect this type of outcome measures for targeted compliance assistance activities. This would assist in evaluating the impacts of various types of compliance assistance activities such as targeted telephone assistance, workshops/training, tool development and on-site visits. Obtaining information about the changes in understanding of environmental obligations, actions taken to improve compliance and individual pollutants reduced will aid the Agency in increasing program effectiveness, improving environmental management and increasing accountability.

The following anecdotal descriptions are one indication of the effectiveness, accessibility and degree of customer satisfaction with EPA's Informal Program. These descriptions were received by the TSCA Hotline and OSWER's RCRA/UST/CERCLA/EPCRA Hotline.

"I would like to take this momentary opportunity to commend your service. I have just gotten off the phone with one of your [RCRA Hotline] employees. I would like for you to know that she has been very friendly and courteous. I found her to be knowledgeable, informative and progressive in her research to find the answers to my questions. I am certain that with this information we will be able to positively impact on protection of the environment and show a nice business profit also."

"After calling the [RCRA Hotline] yesterday, I was motivated to write to you about the excellent help I received from _____. He was very patient and thoroughly explained the complicated interaction between the 'contained-in' policy and land disposal restrictions."

"It is my pleasure to compliment you on the assistance offered me by a member of your staff. I found myself in a quandary while attempting to interpret portions of 40 CFR 370.20, in particular "Subpart B - Reporting Requirements." _____ expressed himself in a most professional manner, smoothed my feathers and solved my dilemma which focused on the correct interpretation of reporting dates and quantities for Tier I requirements."

"I spent a couple of hours today attempting to get some information about hazardous waste disposal from the EPA. I wanted to ensure that our plant was still in compliance with the ever changing standardsAfter three minutes with _____, I had a clear picture of where I could go to get the information I needed. . . . You have restored my faith in "the Bureaucracy."

"_____ wishes to express its appreciation to all the people at the TSCA Assistance Information Service

for their help . . . In particular, we wish to thank her knowledge of the problem, understanding of the TSCA regulations and her willingness to work with us displayed a level of professionalism that is exemplary. . .”

“__ provided me with exactly what I was looking for. Top quality product. Please extend my appreciation.”

5.0 Additional Ways EPA Assists Small Entities

In addition to the services available through EPA’s Informal Guidance Program, the Agency sponsors or supports numerous activities which, while not part of the §213 program, provide valuable assistance to small entities. EPA has a long history of assisting small entities, and, while many of the Agency’s activities pre-date SBREFA, EPA is now, more than ever, committed to developing and enhancing programs that promote environmental compliance among small entities, and addressing the special needs of the small entity community. Due to the mandate that this report focus on activities responsive to §213, the document is very limited in its description of the numerous ways in which the Agency provides assistance for businesses to come into compliance. The Agency has many programs which are geared specifically to small entities, as well as programs available to entities of all sizes which are utilized particularly by small entities. The following description represents only a sampling from across the Agency of activities that assist small entities:

5.1 Services Specifically Designed to Assist Small Entities

5.1.1 SBREFA Small Business Advocacy Chair’s Activities

SBREFA required EPA to create the position of the Small Business Advocacy Chair. EPA has broadened the Advocacy Chair’s role beyond the SBREFA regulatory panel process to help coordinate all the Agency’s small business activities, including compliance assistance.

5.1.2 Compliance Assistance Centers

In 1995, the Office of Compliance (OC) within the Office of Enforcement and Compliance Assurance (OECA) established four national Compliance Assistance Centers in partnership with industry, academic institutions, environmental groups, and other Federal and State agencies in sectors heavily populated with small businesses that face substantial Federal regulation. These centers are the following: (1) National Metal Finishing Resource Center (NMFRC), (2) *Printer’s National Compliance Assistance Center (PNEAC)*, (3) GREENLINK™ -- the Automotive Compliance Information Assistance Center, and (4) National Agriculture Compliance Assistance Center. The Agency recently awarded cooperative agreements to establish an additional four compliance assistance centers for the printed

wiring board manufacturing, chemical industry, transportation, and local government sectors. The purpose of the Centers is to improve compliance within the relevant industrial sector by increasing their awareness of the pertinent Federal regulatory requirements and by providing the information that will assist them in achieving compliance. The Centers accomplish this by offering the following:

- C "First-Stop Shopping" - serve as the first place that many small businesses and technical assistance providers go to get comprehensive, easy to understand compliance information targeted specifically to industry sectors.
- C "Improved Information Transfer" - via the Internet and other means, create linkages (1) between the small business community and providers of technical and regulatory assistance and (2) amongst the providers themselves to share tools and knowledge and prevent duplication of efforts.
- C "Compliance Assistance Tools" - develop and disseminate plain-language guides, simplified compliance checklists, fact sheets, and other tools where needed by small businesses and their information providers.
- C "Links Between Pollution Prevention and Compliance Goals" - provide easy access to information and technical assistance on technologies to help minimize waste generation and maximize environmental performance.
- C "Information on Ways to Reduce the Costs of Compliance" - identify technologies and best management practices that reduce pollution while saving money.

5.1.3 Compliance Incentive Policies

On June 3, 1996, EPA issued a Policy on Compliance Incentives for Small Businesses, 61 Fed. Reg. 27984 (June 3, 1996). This policy, also called the Small Business Policy, provides for civil penalties to be reduced or waived for small entities which discover first-time violations through on-site, government-supported compliance assistance programs or self-audits, where the entity promptly discloses and corrects the violations and meets certain other criteria. A similar policy, the Policy on Flexible State Enforcement Responses to Small Community Violations, offers relief to municipalities and small governments. In addition to these policies, EPA has issued a final audit policy entitled "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations" which creates incentives for all entities, including small entities, to voluntarily discover, disclose and correct violations of environmental regulations. 60 Fed. Reg. 66706 (December 22, 1995). These policies implement Section 223 of SBREFA and will be detailed in a separate report.

5.1.4 Office of Congressional and Intergovernmental Relations

Within EPA, the Office of Congressional and Intergovernmental Relations (OCIR) focuses on that group of small entities made up of small communities and their governments. The office's primary activity is supporting the Small Community Advisory Subcommittee (SCAS) of the Local Government Advisory Committee. The SCAS is a Federally chartered advisory group and its members include small town mayors, managers and clerks who advise the Administrator on small community compliance with environmental laws and regulations. A key aspect of the group's work is ensuring that the voice of small communities is heard as environmental regulations are developed. For instance, SCAS members have nominated small town individuals to serve on SBREFA panels for specific regulations and have also consulted on an informal basis with personnel responsible for developing regulations. SCAS was created to continue the work of the former Small Towns Task Force, itself a Federal advisory group created by Congress before SBREFA was enacted.

5.1.5 Clean Air Act §507 Programs

§507 of the CAA required States to develop a Small Business Stationary Source Technical and Environmental Compliance Assistance Program to aid small businesses impacted by air quality regulations. Each State's program must have three components: (1) a Small Business Assistance Program (SBAP) for providing compliance and technical assistance to small businesses; (2) a Small Business Ombudsman (SBO) to serve as an advocate for small businesses issues and concerns; and (3) a Compliance Advisory Panel (CAP) for determining overall effectiveness of the program.

EPA's Office of Air and Radiation provides technical guidance for use by the States in the implementation of their Section 507 programs. These support activities include:

- C SBAP Home Page as part of EPA's Technology Transfer Network (TTN) on the Internet
- C Plain-language guidance materials to explain new air regulations
 - Distributed to the State programs, as well as directly to small businesses;
 - 300 copies of a recently released guidebook on regulations for the wood furniture manufacturing industry were downloaded from the SBAP Home Page in a three week period
- C Satellite downlink seminars to educate small businesses on new air regulations
 - Four industry specific seminars have been held since 1994, and have reached an average of over 2,000 participants each.

In 1996, §507 programs directly supported over 73,000 small businesses through outreach and assistance, including toll-free hotlines, fact sheets, brochures, seminars, and meetings. SBAPs also conducted over 3,800 on-site consultations. To further increase their range of accessibility, more than 50% of the programs have now established Internet pages, and several programs are also providing assistance on other media issues (i.e., water and solid waste).

5.1.6 Clearinghouses

National Small Flows Clearinghouse (NSFC): EPA established this resource to provide small communities with information and technical assistance to help them reach practical, affordable solutions to their wastewater treatment problems. Among its services NSFC provides:

- C A toll free hotline staffed by professional engineers
- C Free newsletters
- C Over 300 low cost information products
- C Two computer bulletin boards
- C Outreach services.
- C Numerous Data Bases: the Bibliographic Database, the Facilities Database, the Manufacturers and Consultants Database, and the State Regulations Database.

5.1.7-- Ombudsmen in Media Offices geared to Small Businesses

OSWER Ombudsman--In 1996 the Chemical Emergency Preparedness and Prevention Office instituted a specific point of contact for small business communications. Most of the questions the OSWER Ombudsman answers are of a general nature, have been answered before, or are not fact-specific. When unique fact-specific questions are asked, the OSWER Ombudsman consults program experts and the Office of General Counsel, and codify the questions and answers to be included in official policy Q & A database.

OPPT Small Business Ombudsman--The Office of Pollution Prevention and Toxics has expanded the role of the Industry Liaison Staff to include a specific point of contact for small businesses. The primary role of the OPPT Small Business Ombudsman is to provide small businesses with information about the programs managed by OPPT, while also providing OPPT staff with information about the small businesses in our regulated community. The OPPT SBO also convenes regular meetings with small businesses to provide an opportunity for information exchange and discussion on various OPPT issues; ensures that the GPRA performance measures include small business concerns; maintains a small business directory for OPPT outreach purposes; and helps OPPT staff, managers, and divisions develop outreach and communication plans that ensure communications with small entities are achieved.

5.2 Services Geared to Entities of Any Size

5.2.1 Clearinghouses and Information Centers

The following represents just a sampling of the clearinghouses available across the Agency:

National Lead Information Center and Clearinghouse (Lead Hotline)--operates by grant and serves as a resource for a variety of constituencies including many small businesses in the field of housing,

construction, residential renovation, real estate, and insurance. The Lead Hotline distributes information about the Real estate Notification and Disclosure Rule, and maintains and expands the information available through the Internet site maintained by the Environmental Health Center (a subdivision of the Hotline). The Hotline receives about 4,300 calls per month that are handled by the automated system and another 4,000 calls per month that are handled by information specialists. The Lead Hotline information specialists provide individual assistance and more detailed technical information and referrals. In addition to distributing approximately 150 printed documents, the Lead Hotline has educational videos available for loan, and information in English and Spanish available on the Agency's Internet site. During the last 4 months of 1996, the Lead Hotline responded to more than 85,000 calls, primarily in response to implementation of the joint EPA and HUD Real estate Notification and Disclosure Rule.

National Antimicrobial Information Network –The National Antimicrobial Information Network (NAIN) operates as a cooperative agreement between Oregon State University and the Office of Pesticide Programs (OPP), EPA, and in conjunction with the National Pesticide Telecommunications Network (NPTN). EPA provides antimicrobial-related information about a wide variety of subjects, including antimicrobial products: sanitizers, disinfectants, and sterilants regulation and registration of antimicrobial products. NAIN can assist callers with interpreting product labels and compliance with permitted uses as well as supply general information on the regulation of antimicrobial pesticides in the United States. When requests are made that are outside of the expertise or authority of NAIN, they refer inquiries to a list of EPA program experts.

NAIN has many resources available for the regulated community and the general public. These resources include labels of all products registered with the EPA, CD-Roms including the Hazardous Substance Data Bank (HSDB), PESTBANK and on-line internet resources, a library of health and chemical texts and periodicals on antimicrobial products and other pesticides EPA published literature, and a list of referral contacts for associated questions outside of NAIN's expertise. NAIN will include small business information about registration and regulation of antimicrobial pesticides when it is available.

Pollution Prevention Information Clearinghouse serves as a distribution center for EPA documents and fact sheets, and as a referral service to sources of pollution prevention expertise. In order to foster a sense of collective stewardship among the State programs of the growing body of pollution prevention information, the Agency is developing a network of mutually supporting, regionally-based centers, which will offer a combination of technical assistance and training services.

5.2.2 -- Sector Specific Multimedia Compliance Tools

EPA has developed a variety of compliance assistance tools to the public to enable all-size entities, including small entities, to better understand their responsibilities and to increase their environmental compliance. The following are examples of such tools:

Sector Notebooks--The Office of Enforcement and Compliance Assurance (OECA) has developed sector-specific notebooks to provide the regulated community, EPA, and State agencies with a holistic, multimedia look at the environmental issues affecting a particular industrial sector. In addition, community groups, educators, other government agencies, and even foreign government agencies are finding them to be valuable resources. The Notebooks contain a variety of information ,including national distribution of facilities, process descriptions, waste releases, pollution prevention opportunities, applicable statutes and regulations, and compliance and enforcement history. By making this type of report available on an individual sector basis, OECA hopes to anticipate a small entity's questions and facilitate their compliance with applicable regulations. OECA has issued 27 Sector Notebooks for many industrial sectors, including many involving small businesses such as the Dry Cleaning and Printing industry. In fiscal years 1996 and 1997, approximately 120,000 Sector Notebooks were distributed.

Plain language guides -- OECA has issued a series of documents geared to the needs of individual business sectors, for example, dry cleaning, that explain the various environmental regulations to which that sector is subject. While these materials are useful for a business of any size in the dry cleaning sector, they are of particular use to small businesses, which make up the majority of the regulated community of dry cleaners. Since this sector is also populated by a large percentage of Korean businessman, the Agency has provided Korean translations of the MACT regulations and plain language guides. At the direction of the Deputy Administrator the Agency has also begun a "plain English" pilot project across all programs. For instance, OSWER has recently started writing (and issuing) regulations written in a plain language, question-and-answer format. This format presents information in a logical, common-sense progression, posing and answering questions that describe what the regulation is, what problem it solves, who is affected by the regulation, how to comply, etc.

In addition to the sector notebooks and plain English guides, the Agency issues succinct and understandable Fact Sheets to accompany each regulatory action. For example, OSWER program offices prepare and distribute wide variety of compliance assistance materials written in "plain language" (English and sometimes Spanish), frequently using question-and-answer format. These materials avoid the need for members of the regulated community to seek answers to additional fact-specific questions. Here is only a small example of the types of publications available to entities of all sizes, but which are of particular use to small entities:

Compliance assurance fact sheet for Small Businesses; Awareness fact sheet for Municipal Drinking Water Waste Water Systems; and LEPC fact sheet -- All created for the Spills Conference, which conducted a national dialogue on preventing groundwater contamination by preventing spills.

Musts For USTs -- Dollars And Sense Plain-language presentations of the technical and financial responsibility regulations. In addition, OSWER has recently distributed publications on USTS.

Straight Talk On Leak Detection -- Discusses various leak detection options

Understanding the Hazardous Waste Rules: A Handbook for Small Hazardous Waste Businesses - 1996 Update -- This handbook provides a general overview of the Federal hazardous waste generator regulations.

Don't Wait Until 1998 -- Plain-language discussion of requirements for 1998 deadline for new technical standards for underground storage tanks.

RCRA in Focus: -- A sector-by-sector specific series that provides an overview of the Federal regulations that small businesses are required to follow and the wastes that are likely to be hazardous in your business. Also provides Federal recycling and pollution prevention options to help small businesses decrease the amount of hazardous waste generated. First in series covers printing.

TRI Facility Reporting: Guidance Documents -- Five industry sectors guides were developed for the industries recently added to the TRI reporting requirements (EPCRA 313). In addition to the sector guides, a revision to the EPCRA 313 Questions and Answers document was published, which provides compliance guidance to commonly asked interpretive questions. Other Sector Guides are also available. These guides provide a clear and concise explanation of the mandates and walk the facility through the reporting requirements.

5.2.3 Electronic Resources

The Agency has many user-friendly electronic resources which may be accessed directly or linked to the main EPA Home Page. From EPA's home page (www.epa.gov), access to each major Agency program can be accomplished. The following are examples of program home pages:

Office of Air and Radiation (OAR) Home Page -- Provides information on EPA's air regulations and programs, including policy and guidance materials, fact sheets, and contact information for subject matter experts. The OAR site was accessed almost 5,000,000 times in 1997.

Technology Transfer Network (TTN) -- A collection of related Web sites containing information about many areas of air pollution science, technology, regulations, measurement, and prevention; also serves as a public forum for the exchange of technical information and ideas. In 1997, users retrieved over 1,000,000 files from the TTN.

Clean Air Act Applicability Determination Index (ADI) -- The Office of Enforcement and Compliance Assurance (OECA) updated the Index to include 325 new determinations and expanded it to include the MACT program. The ADI is a computerized, menu-driven compilation of all policy and technical determinations issued pursuant to the Clean Air Act in the following categories: asbestos, CFC's, NESHAP, NSPS, wood stoves, and Part 63 MACT standards. Within each category, users can search by date, subpart, references, and string words. The compilation receives an average of 1200 calls per month, and is currently available on the Technology Transfer Network.

Vehicle Imports Faxback System -- Provides telefaxed information assisting vehicle and engine importations, and clarifying vehicle warranty coverage.

OSWER Websites -- These sites provide small businesses and other users a history of the regulations, answers to frequently asked technical and compliance questions, electronic versions of current publications for reading online or downloading, contacts for various program areas, and other information. All OSWER Fact Sheets, publications and regulations are available electronically.

Electronic Databases. EPA developed an electronic database of almost 1,000 Federal and State of Texas environmental recordkeeping and reporting requirements that may apply to manufacturers in the computer and electronics industry. These basic requirements were further refined to include information at the data element level, and the database includes over 8,000 reported data elements. This project will be expanded to enable businesses to query the database and determine their regulatory responsibilities.

As of December 1997, OPPTS's distribution list for sending documents electronically include:

931 parties for pesticides
16,000 parties for Toxic Release Inventory (TRI), and
15,000 parties for Toxic chemicals.

OPPTS's Fax-on-demand (FOD) -- OPPTS originated this service approximately 8 months ago to ensure equal access to information for those unable to access the Internet. The primary target audience is that without full Internet capacity but that which has access to a fax machine. Between 4/97 and 11/97, OPPTS has distributed 1,025 documents in this manner.

Pollution prevention and regulatory compliance information may also be found on EPA's web site (www.epa.gov).

5.2.4 Education/Training

Much of this work involves education and training of members of the regulated communities--both small entities and others--through variety of mechanisms including seminars, workshops, presentations, facility inspections, videos, etc. Program offices generally provide training on program and activities through various methods. OSWER's "Plan in Hand" training is especially for small business. Another example of training available for entities of all sizes is the training courses to familiarize certain facilities with their legal and reporting requirements for a rule.

- Two examples are:

- Facilities Expansion for TRI Reporting under section 313 of EPCRA:
 - Training courses will familiarize certain facilities with their TRI reporting requirements and 6607 of the Pollution Prevention Act of 1990 (PPA). These facilities may perform activities associated with the industry sectors recently added.
 - Basic requirements of EPCRA section 313 that is sector-specific.
- Agricultural Worker Protection Standards Training for Farm Businesses:
 - EPA financially supported the National Council of Agricultural Employers (NCAE) to research growers understanding of the WPS and to develop workshops for growers addressing those areas of the WPS most commonly misunderstood.

In addition to the numerous and extensive training programs sponsored by the Agency, EPA also hold many public meetings and stakeholder interviews. For example, in an effort to evaluate the progress of the implementation of the Agricultural Worker Protection Standard (AWPS), the Office of Pesticide Programs conducted nine public meetings across the country between February and September 1996, and visited over 43 diverse sites (i.e. crop fields, processing plants etc.). Participants in this effort included farmers, growers, agricultural workers, pesticide handlers, and State and local officials. Through this extensive outreach effort, EPA hopes to receive hands-on feedback directly from those most affected by the regulations. By providing an opportunity for face-to-face dialogues between the regulated community and EPA officials, as well as providing hands-on compliance assistance in implementing the regulatory requirements, EPA is better able facilitate implementation and compliance with their program.

5.2.5 Technical Assistance

The Agency funds a number of projects which provide for technical assistance to small entities and others in need. For example, the Pollution Prevention Act of 1990 (PPA) authorizes EPA to award \$8 million per year in matching grants (50 percent) to States to develop technical assistance programs for pollution prevention. As a practical matter, these programs mostly serve small businesses. According to a 1996 evaluation, over the period 1990-1994, these programs provided for about 5,000 pollution prevention sites assessments for businesses, held 850 workshops for businesses, and developed 370 pollution prevention cases studies for dissemination. In order to promote prevention as a means toward regulatory compliance, and to enhance its ability to reach small businesses with the prevention message, OPPTS now requires all PPA-funded programs to partner with other compliance assistance programs (e.g. the §507 Programs) and/or established business assistance programs. For example, to ensure that small businesses have access to pollution prevention technologies in order to provide them with the means to more efficiently comply with environmental regulations and to demonstrate the potential “access-value” of the Small Business Development Centers supported by the Small Business Administration, OPPTS has funded pilot efforts with three such centers:

- (1) Vermont SBDC, which was begun in fiscal year 1995 and which jointly administers a program for

the State environmental agency, which offers free, on-site assessments. In fiscal year 1997, the program provided 20 such assessments and conducted 5 workshops;

(2) Pennsylvania SBDC, which was begun in fiscal year 1997 and initially focused on internal training. It also co-hosted six workshops for dry cleaners, and offers ongoing Federal procurement workshops for “green purchasing.”

(3) Howard University SBDC, which was funded beginning in fiscal year 1998, and which will assemble teams of engineers and business advisors to provide one-on-one counseling to small businesses in Northeast Washington, D.C., Anacostia Watershed.

5.2.6 Small Entity Compliance Evaluation

EPA has agreed to assist the SBA’s National Enforcement Ombudsman to inform small entities of the opportunity to comment on Federal agency enforcement activities. Under §222 of SBREFA, the Ombudsman is directed to “work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort or other enforcement-related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by such personnel.” As part of the SBA’s implementation of this section, the National Enforcement Ombudsman has asked Federal agencies, including EPA, to make this process known to small businesses in connection with these activities. The Agency views the §222 process as a cooperative, shared enterprise, and in that spirit is happy to assist in the task of publicizing the availability of the §222 comment process.

Specifically, EPA has agreed to include the following language in a variety of its enforcement and compliance materials geared for small businesses:

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually rate each agency’s responsiveness to small business. If you wish to comment on the enforcement and compliance activities of EPA, call 1-888-REG-FAIR (1-888-734-3247).

This Statement will be included with the Agency’s Policy on Compliance Incentives For Small Businesses, Policy on Flexible State Enforcement Responses to Small Community Violations, and the Incentives for Self-Policing, Disclosure, Correction and Prevention of Violations, which are designed to enhance the fair and expeditious resolution of EPA enforcement activities involving small entities. In addition, this notice will be included in materials provided by the Agency’s numerous Small Business Compliance Assistance Centers, described earlier in this report, which are available on the world wide web, and which are actively being used by small business with compliance issues. The Agency will also be seeking to work with the National Ombudsman to identify other enforcement and compliance means

for advising small entities of the §222 process.

6.0 Conclusion

For many years, EPA has striven to meet the special needs of small entities. Prior to the enactment of SBREFA, the Agency initiated and successfully implemented many of the activities discussed in this report. These programs provide the small entity community with a convenient and efficient way to access media-specific and multi-media compliance information. The EPA Small Business Ombudsman is already well-known for providing a “first-stop shop” for small entities. The SBO is supplemented by other resources throughout the Agency, such as small business liaisons, hotlines, clearinghouses and media program experts. In addition, the Agency is constantly seeking new and even more efficient ways to reach small entities so that they are afforded every opportunity to better understand the Agency’s regulatory requirements. EPA is pleased to submit this Report to Congress.